

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES
October 28, 2014**

CALL TO ORDER

Acting Chair Schumer called the October 28, 2014 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following Commissioners were present: Acting Chair Schumer, Commissioners, Ferrington, McCool, Peterson, Proud

Commissioner Thompson arrived at about 7.05 p.m. Chair Solomonson was absent.

APPROVAL OF AGENDA

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to approve the October 28, 2014 Planning Commission meeting agenda as submitted.

VOTE: Ayes - 5 Nays - 0

Commissioner Thompson arrived at this point in the meeting.

APPROVAL OF MINUTES

MOTION: by Commissioner Ferrington, seconded by Commissioner Thompson to approve the September 23, 2014 Planning Commission meeting minutes, as submitted.

VOTE: Ayes - 4 Nays - 0 Abstain - 2 (McCool, Proud)

NEW BUSINESS

PUBIC HEARING - CONDITIONAL USE PERMIT

FILE NO. 2547-14-37
APPLICANT: GEORGE & JUSTINE GREENE, JR.
LOCATION: 5875 KITKERRY COURT SOUTH

Presentation by Economic Development and Planning Tech, Nikki Hill

The application for a Conditional Use Permit is for a second detached accessory structure on the applicants' property. The proposal is to construct a 168 square foot pool house, which would be the second detached accessory structure. Currently, there is a 120 square foot shed that was

constructed in 2008. The total area of the requested detached accessory structure exceeds 150 feet and requires a Conditional Use Permit.

The property is zoned R1, Detached Residential with the planned land use designated as low density residential in the Comprehensive Plan. The property is trapezoidal in shape and has an area of approximately 18,295 square feet with a width of 100 feet at Kitkerry. The property is developed with a single family home of approximately 1,308 square feet in foundation area with a 528 square foot attached garage.

The proposed pool house is pre-fabricated with a wall height of 10 feet. It will be located in the rear yard north of the existing pool, 20 feet from the rear yard line to the west and over 40 feet from the north property line. On parcels of less than one acre with a two-car attached garage, the maximum area of detached accessory structures is 150 square feet. The maximum area can be increased to a maximum of 288 square feet with a Conditional Use Permit. The total floor area of all accessory structures, attached or detached, cannot exceed 90% of the foundation area of the dwelling or total 1200 square feet, whichever is less. The application does comply with these foundation area restrictions, with setback regulations and height requirements. The exterior will match the existing home. Existing vegetation on the south lot line will screen the structure, and staff is not recommending additional screening.

Notice of the public hearing was published. Notices were also mailed to property owners within 350 feet of the subject property. One comment was received expressing concern that a second detached accessory structure will clutter the appearance of the property. Staff believes that the limit of two detached accessory structures addresses this concern.

Staff is recommending approval of the proposal and finds it is consistent with the standards and intent of the Development Code.

City Attorney Joe Kelly stated that the public hearing notice was properly published.

Acting Chair Schumer opened the public hearing. There were no comments or questions.

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to close the public hearing.

VOTE: Ayes - 6 Nays - 0

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to recommend the City Council approve the Conditional Use Permit application submitted by George and Justine Greene, 5875 Kitkerry Court S, to construct a 168 sq. ft. detached accessory structure (pool house) on their property. The Conditional Use Permit authorizes 288 square feet of total floor area for the two detached accessory structures, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design of the addition shall be consistent with the plans submitted and complement the home on the property.
3. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards.
4. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

VOTE: **Ayes - 6** **Nays - 0**

PUBLIC HEARING-PRELIMINARY PLAT/PLANNED UNIT DEVELOPMENT

FILE NO.: **2500-13-27**
APPLICANT: **LEXINGTON ESTATES II TOWNHOME ASSOCIATION, INC.**
LOCATION: **02-30-23-32-0273 ROYAL COURT**

Presentation by City Planner Kathleen Castle

This application requests an amendment to the Planned Unit Development for common areas of Lexington Estates II be re-platted to dedicate Royal Court as a public street with some setback reductions. The PUD was approved in 1981, known as Serene Hills. Private streets were permitted but built to public street standards at the time and comply with the Fire Code for emergency vehicle access and turnaround. The townhome association has managed maintenance of the road which only serves the townhomes.

Public utilities are located beneath the roadway, and drainage and utility easements have been conveyed to the City. The criteria for converting private streets to public roads include: 1) the street can function as a public street; 2) the street is built to City standards; and 3) re-platting is required to provide dedicated public right-of-ways. The right-of-way varies in width from 25 to 50 feet because of public parking areas. The structure setbacks from the new right-of-way would range from 21 to 25 feet.

The request has been reviewed by the Public Works Director who has determined that Royal Court can be maintained as a public street. Royal Court complies with the criteria for the City to take over this private road. It is noted that a portion of the roadway is on Hill Court property immediately to the north, which is owned by a different Homeowners Association, Lexington Estates Association. That association has agreed to convey an easement to the City for public road purposes. There are two structures in Hill Court that will be within 10 feet of the proposed easement right-of-way. Public Works staff has determined that a public roadway can be maintained without impact to these two units, including snowplowing. Smaller vehicles will be used for snowplowing.

Notice of the public hearing was published in the legal newspaper, and notices were sent to property owners within 350 feet of the subject property. Two comments were received expressing concerns about additional public expense to maintain the road and the impact on nearby townhome units in Hill Court. There is a memo from Public Works Director Mark Maloney outlining the anticipated roadway costs.

Staff is recommending approval, as the conversion from private to public roadway meets City policy criteria. The proposal supports housing and neighborhood stabilization goals. A parking agreement is required, as parking must comply with requirements for public roadways. Overnight street parking would be prohibited. Driveways are long enough to accommodate overnight parking for guests.

Commissioner Peterson noted the request that any future street projects not be assessed to Hill Court property owners. Ms. Castle stated that the City cannot make a commitment that there will not be any assessments. Property can only be assessed when it is benefitted by the work being done.

Commissioner McCool expressed his concern about a memo from Public Works Director Mark Maloney stating that the current assessment policy does not necessarily fit the circumstances for assessment if a private road needs improvement. He also asked about not making the parking islands part of the public road right-of-way and the cost for the City to maintain this road. Ms. Castle responded that it would be difficult to determine who plows the road and who plows the parking areas. City crews already plow in the area and it will not be a significant cost to add the plowing of this road.

Commissioner Proud asked how plowing will impact area outside the right-of-way. Ms. Castle stated that the plan is to push the snow to the common area in the middle.

Acting Chair Schumer opened the public hearing.

Mr. Keith Bolay, 1050 Royal Court, Member of the Homeowners Association, stated that there was a vote and all are in agreement with this process.

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to close the public hearing.

VOTE:

Ayes - 6

Nays - 0

Commissioner McCool stated that his concern is that the City is adding additional maintenance expense. He also is concerned that if road improvements are needed, the City will be unable to assess homeowners. There is a legal question as to whether the City can assess. Secondly, there is a policy issue as to whether the City's policy is consistent with allowing assessments..

Commissioner Proud asked if the assessment issue will be brought before the City Council for resolution. Ms. Castle stated that the Planning Commission can take action and recommend that the City Council address this issue before taking final action. The issue could be addressed separately. Commissioner Proud stated that he would support separate consideration of the assessment issue by the City Council.

Commissioner McCool agreed with Commissioner Proud that he would like to see the City Council resolve the issue. It would be difficult for him to support this action without knowing whether assessments can be applied to these homeowners.

Commissioner Proud stated that Councilmembers will read the minutes of this meeting and understand the issues raised. He does not see a need to amend the motion proposed.

Commissioner Peterson noted that Mr. Maloney's memo points out that homeowners on private streets have been paying taxes for City services of snow plowing and sealcoating. He would also like to see an equalization of the assessment policy, but there is good reason to support this application for the neighborhood stabilization reasons given by the Economic Development Authority.

City Attorney Kelly stated that one question is whether to add a recommendation to the motion for the City Council. He agreed that the Council will see the concerns expressed in the minutes of this meeting. The amended PUD does not list an exemption. It looked to be a request. For clarification, it may be a good idea to include a recommendation that any assessments would be fairly distributed to those affected according to law. Ms. Castle has pointed out that assessments are determined according to benefit to the property. It appears that the Association has requested that the Association itself not be assessed. The question is then whether individual homeowners are benefitting and would be assessed. There is also a question of what property is owned by the Association after this vacation.

MOTION: by Commissioner Peterson, seconded by Commissioner Proud to recommend the City Council approve the Preliminary Plat, Serene Hills Estate Plat Five, and the amended Planned Unit Development, submitted by Lexington Estates II Townhome Association, Inc. for the conversion of Royal Court from a private street to a public road. Approval is subject to the following:

1. Approval of the preliminary plat and amendment to the PUD shall expire within one year of the date approved by the City Council.
2. The final right-of-way design for Royal Court is subject to review and approval of the Public Works Director.

3. Execution of an agreement between the City and Association stating the Association will comply with the City parking regulations for the proposed public right-of-way, including the parking areas.

This approval is based on the following findings:

1. The use and development was approved as a PUD, Planned Unit Development with an underlying zoning of R-2, Attached Residential.
2. The use and proposed alterations are consistent with the planned land use , goals and policies of the Comprehensive Plan, Chapter 4, Land Use and the housing goals in Chapter 7, Housing.
3. The conversion of the street to a public roadway is consistent with the City's current subdivision standards that require all streets to be publically dedicated rights of way.
4. Royal Court complies with the established criteria regarding the conversion of private streets to public streets.

VOTE: **Ayes - 5** **Nays - 1 (McCool)**

VARIANCE

FILE NO.: **2546-14-36**
APPLICANT: **MIKE MORSE**
LOCATION: **1648 LOIS DRIVE**

Presentation by Senior Planner Rob Warwick

In 2011, the City became aware of a detached accessory structure being constructed on the Morse property without the proper permits. Prior to that, a detached garage was demolished without proper permits. A Stop Work Order was issued on July 8, 2011 on the new structure, and Mr. Morse was notified of the building and land use requirements as well as the permitting process. The structure did not comply with the area, height and setback regulations. Previous variance requests by Mr. Morse in 2011, 2012 and 2014 have been denied. The City obtained a Court Order to remove the structure, and it was removed in August 2014. The concrete slab of 22' x 50' on which the structure was built was left in place by the City.

The applicant is now requesting a variance to retain the existing concrete slab to construct a 572 square foot garage and a parking area of 22' x 24'. The variance requested is to reduce the side setback from the required 5 feet to 2.3 feet, the setback of the existing slab.

The lot width is 75 feet. The east 5 feet and south 5 feet are encumbered with drainage utility easements with an asphalt drainage channel along the east lot line in the easement. The existing dwelling is single-story consisting of 768 square feet. The plan is to construct the garage on the north portion of the existing slab and use the south portion for parking. There will be a double overhung door on the north side and a single overhead door on the south side to access the parking area behind the garage.

The property is zoned R1, Detached Residential. Accessory structures must be a minimum of 10 feet from the rear lot line. The maximum impervious surface coverage allowed is 40% of lot area. The proposed garage complies with Development Code requirements in terms of floor area, height, wall height and exterior design. The only variance requested is the 2.3 foot side setback.

The applicant states that practical difficulties exist. The garage will be used for vehicle and personal storage. Reuse of the existing slab minimizes further site disturbance and reduces cost. The unique circumstances on the property are the drainage ditch, the location of the previous garage and its alignment with the driveway. The character of the neighborhood will not be impacted because there has been a garage in this location in the past.

The City's Building Official has identified requirements from the Building Code that include:

- One-hour rated fire assembly for the portion of the structure within 5 feet of the property line.
- Building projections, such as soffits, are not permitted to encroach any further than within 2 feet of the property line.
- Gutters are allowed on the 4-inch west overhang.
- An engineer's structural analysis is required to verify that the slab and garage meet the minimum requirements of the Building Code.

Staff finds that the proposed garage complies with City standards except for the side setback of 2.3 feet. But staff does not find practical difficulty is present. The exact setback of the previous garage is not known. A building permit dated from 1965 identifies a setback of 6 feet. The property owner removed the previous garage with no permits or inspections. The existing slab was installed by the property owner with no permits or inspections and is a circumstance created by the property owner. Staff is concerned that proposal will result in: 1) a 22' x 24' parking pad; 2) a 22' x 26' garage; and 3) a driveway all with a setback of less than 5 feet, which may impact the adjacent property. Mitigation with landscaping is not possible because of the narrow proposed setback. The drainage easement is not a unique circumstance that warrants a shift in the garage location further west than the 5-foot required setback.

Property owners within 150 feet of the subject property were notified of the new application. Three comments were received. One comment supports the project. Two expressed concern about fire safety, drainage and visual impact of the structure and parking. A fourth comment was distributed at this meeting that encourages compliance with the 5-foot setback requirement.

Staff finds that the proposed structure could be built at a 5-foot setback. The proposed 2.3 foot setback does not provide open space between properties or space for construction and maintenance. The basis of the variance request is due to the applicant's actions. As staff cannot identify affirmative findings for all three variance criteria, it is recommended that the variance request be denied.

Commissioner Ferrington asked who would pay for the engineer's structural analysis of the slab and new garage. Mr. Warwick responded that the applicant would have to pay for an analysis to show that the structure meets Building Code requirements.

Commissioner McCool noted that the picture of the driveway leading to the old garage shows the driveway closer to the side property line than the garage wall. He asked the setback of the edge of the driveway from the lot line. Mr. Warwick answered, 4 feet.

Commissioner Ferrington stated that the photo could be of any property. There is no way for the Commission to know that this is a picture of the previous garage.

Acting Chair Schumer asked if the applicant had worked with City staff on this application and the reason the slab was not removed. Mr. Warwick answered that there was no discussion with the applicant previous to the application being submitted. The reason the slab was not removed is because the City considered it reasonable to allow the slab for the potential of a future garage that would be in compliance with City Code. The fact that the slab was left intact is not meant as justification for a variance request.

Mr. Mike Morse, Applicant, stated he did not work with the City on this application because of what has happened over the last three years. There is a history of him not being treated fairly. He agreed that he is aware of the Code requirements and wonders why those requirements are not being applied to his neighbors. The driveway, which he did not install, is 4 feet from the property line. Everything can be constructed in compliance with City Code. However, there is 33 feet between his home and his neighbor's home. That characteristic is not found in the rest of the neighborhood. The reason is because of the drainage ditch along one side of his property that he did not put in. That is why he believes it is reasonable to place a new garage in the same location as the old garage. There are no clear records of where the old garage was located. The privacy fence shown in the photo mentioned earlier sits 2 feet into his neighbor's property. He plans gutters on each side for runoff. The required fire wall is not a problem. He did not create the circumstances of the placement of the driveway and old garage. The Court Order was for the structure to be removed. He received a letter from Ms. Castle that 2.7 feet of the western side would be removed to bring the concrete into compliance with a 5-foot setback. Letters from neighbors support compliance enforcement, but one neighbor has a garage that is higher than their house. Another neighbor built a garage without a permit in 2000, and was then issued a permit in 2013. It is difficult to understand how there is equal treatment. He is required to put in a fire wall, but his neighbor has a wood burning stove in the garage without one.

Commissioner McCool asked if Mr. Morse would be willing to remove the southern portion of the concrete. Mr. Morse stated that he cannot afford the removal. Commissioner McCool explained that the variance is not just for the garage but makes further impact because of the slab extension for parking. Mr. Morse stated that in January 2014, he withdrew his application because the statements from Planning Commissioners were that the structure size was too large. There was acknowledgement that the drainage swale might push the garage setback closer than 5 feet. He has worked to reduce the size of the garage from 1100 square feet to 572 square feet.

Commissioner Peterson asked the location of the 36-inch gate at the back of the garage. Mr. Morse explained that the gate was never in the back or at the side of the garage. It was originally in front where the deck steps up. When the bigger garage was built, the gate was removed. He put it behind the garage because he did not want to get rid of it.

Acting Chair Schumer asked if Mr. Morse would be willing to cut the concrete slab to comply with the 5-foot setback and move the proposed garage to the back of the slab. His concern is that the back will become a storage area. Mr. Morse stated that he would not be able to afford redoing the concrete.

Acting Chair Schumer asked for public comment.

Mr. Jim Martin, 1656 Lois Drive, immediately to the west of the applicant. He referred to his letter that he submitted indicating his opposition to the variance request. His concern is drainage as his property sits lower than the Morse property. Water flows west toward his property. Further, the reduced setback could interfere with fire protection access. He stated that the new proposed garage is not in the same location as the old garage but is at least 2 feet closer to the property line to the west.

Mr. Curtis Peterson, 1637 Lois Drive, stated that he does not believe Mr. Morse has acted in good faith. He says he does not have enough money now, but if it had been done right in the first place, there would be no problem. He himself parked an RV on his property that was out of compliance. When it was brought to his attention, he found a place to store it. Residents work to comply with City regulations. He wants Mr. Morse to have a garage, but it is important that the regulations be applied and enforced fairly.

Commissioner Thompson stated that with all the changes that have been made to reduce the size of the garage, she will support the proposal. She is convinced that the old garage was located where the new garage is proposed. Everyone has been through a lot with the way this application has come forward. The variance is reasonable and should be granted.

Commissioner Ferrington asked staff their understanding of the location of the old garage. Mr. Warwick stated that the building permit from 1965 shows a 6-foot side setback.

Commissioner Proud stated that he supports staff's recommendation. He would like to see staff and the applicant negotiate a solution.

City Attorney Kelly stated that there are two types of nonconforming uses. One is when a structure is legally built, but there is a change in the Code. If a property is destroyed 50% or more, there is a right to rebuild the nonconforming use with a building permit applied for within 180 days of the destruction. Other nonconforming uses are illegal. In this case, there is a file from 1965 that shows a 6-foot setback that would be in compliance. Building outside the setback is illegal, and there is no right to rebuild a nonconforming use.

Acting Chair Schumer asked what the Court Order stated. City Attorney Kelly responded that the Order granted the City the right to take down the structure. The City intended to take a portion of the concrete slab, but Mr. Morse's attorney required that the entire slab be removed, not just a portion. The City then left the slab for storage and reserved the right to remove the concrete slab at a later date. There is no time line for total removal.

Commissioner Ferrington stated that she supports the staff recommendation. There are repercussions from having the slab without a permit. It is unclear whether it is adequate to be a garage floor. An engineer will have to be hired to do an analysis, which will cost money. There is a conflict about where the former garage was located. The practical difficulty was created by the applicant over the last three years.

Commissioner McCool stated there is so much history with this applicant. However, if this application were seen for the first time at this meeting, he believes the Commission would still have spent time trying to figure out the location of the earlier garage. He supports the application. The property is unique because the drainage ditch does push the garage further to the west lot line. He would prefer to see no slab, but his support would be with a condition that a portion of the slab be removed to a conforming distance from the lot line. He would also require screening of the slab from the adjacent property owner.

Commissioner Peterson stated that he supports staff recommendation for denial.

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to deny the variance request submitted by Michael Morse at 1648 Lois Drive to construct a 22' x 26' detached garage and a 22' x 24' parking area on his property with a setback of 2.3 feet based upon the findings that no practical difficulty exists and based on the following findings of fact:

To deny the variance request submitted by Michael Morse, 1648 Lois Drive, to construct a 22-by 26-foot detached garage and a 22- by 24-foot parking area on his property, with a setback of 2.3 feet, based on findings that practical difficulty is not present, and the following findings of fact:

1. The request does not comply with the spirit and intent of the City's Development Code and Comprehensive Plan due to the proposed 2.3-foot setback from the side property line for the driveway, detached garage, and parking area south of the garage, open space between properties is not maintained. Maintenance of west side of the garage is not possible from the applicant's property.
2. Reasonable Manner. The applicant can use his property in a reasonable manner as permitted by the Development Code. In accordance with the City's regulations a 572 square foot detached accessory structure could be constructed at the required 5-foot side yard setback. The applicant's proposal is not a reasonable use because the structure can be placed further away from the lot line.
3. Unique Circumstances. Unique circumstances are not present. The slab was installed in this location by the applicant without required City permits and is a self-created circumstance. It is possible to construct an accessory structure on the property at the 5-foot setback required from the west side lot line.
4. Character of Neighborhood. The proposed setback for the garage and parking from the western side property line does negatively impact the adjoining property and character of the neighborhood. Visual mitigation is not feasible due to the encroachment on the 5-foot side setback required and limited space for landscaping and building maintenance.

Discussion:

Commissioner Proud stated that it is his hope that the parties can have a productive meeting to resolve all issues.

VOTE: **Ayes - 4** **Nays - 2 (McCool, Thompson)**

VARIANCE

FILE NO.: **2550-14-40**
APPLICANT: **TROY & SARAH WANGLER**
LOCATION: **4525 RICE STREET**

Presentation by City Planner Kathleen Castle

This application is to increase the maximum 40-foot setback permitted to 45 feet for the construction of a new home. In October, the City Council approved a minor subdivision of the property. A variance was previously granted for Parcel A waiving the requirement for public street frontage. A variance is now requested for Parcel B for the structure setback. Parcel B consists of 44,021 square feet with a lot width of 162 feet. The existing home would be demolished. A new home will be built with attached garage. The new home will be in the same area as the existing home. It complies with all structure setback requirements except for the need to increase the maximum front setback to 45 feet. Five landmark trees will be removed.

The applicant states that the lot is unique. The proposed home is to be located in the same area as the existing home to minimize impacts of construction. If the new home were shifted further south to comply with the 40-foot setback, more fill would be required. There is a utility line bisecting the property that limits building placement. The proposed location best protects the character of the lot.

Staff finds that practical difficulty is present. The proposed single-family home development is reasonable. The existing house is set back 57 feet; the new home is larger but with a setback of 45 feet. Site disturbance will be minimized by using the existing building pad. The lot is unique in configuration and topography. It is a flag lot with buildable area off the improved Rice Street. The proposed location of the home is more in keeping with the adjacent home. There is no defined neighborhood character as there are varying densities and housing types. The proposed house location will not be highly visible from Rice Street. Staff finds that there would be no impact on the character of the neighborhood.

Notices were sent to property owners within 150 feet of the subject property. One comment was received from the City of Vadnais Heights, expressing no concerns. The City Engineer has requested the house be shifted to the east to minimize encroachment or disruption of the utility line. Staff is recommending approval with the conditions listed in the staff report.

Mr. Troy Wangler, Applicant, stated that he would be willing to answer any questions.

MOTION: by Commissioner Farrington, seconded by Commissioner Thompson to approve the variance request submitted by Troy and Sarah Wangler for their property at 4525 Rice Street (Parcel B) increasing the maximum 40-foot structure setback from a front property line to 45 feet and adopt Resolution No. 14-93, subject to the following conditions:.

1. This approval will expire after one year if the variance has not been recorded with Ramsey County.
2. The approval is subject to a 5-day appeal period.
3. The Development Agreement for Construction on Parcel B shall be executed prior to the issuance of a building permit for this project. The terms and conditions of this agreement shall be adhered to.

This motion is based on the following findings:

1. The proposed single-family residential use of the property is consistent with the low density residential land use designation proposal and the R-1, Detached Residential Zoning District.
2. Practical difficulty is present as the placement of the home in the same general location as the existing home is reasonable. Unique circumstances are present due to the location of the existing home, lot configuration and access, and location of the adjoining home at 4521 Rice Street.
3. The area is currently a mix of high-, medium-, and low-density residential developments. There is no defined development pattern for the single-family residential uses. The proposed setback will not alter the character of the existing neighborhood.

VOTE: **Ayes - 6** **Nays - 0**

PRELIMINARY PLAT

FILE NO.: **2549-14-39**
APPLICANT: **TOM & BARB NOVOTNY/MOSER HOMES, INC.**
LOCATION: **5515 TURTLE LAKE ROAD**

Presentation by Senior Planner Rob Warwick

A preliminary plat application has been submitted to subdivide the existing 6.2 acre parcel into four single-family lots, which all conform to the dimension requirements of the R1 District. Each of the two new lots will be 88 feet by 237 feet. A 43 by 145-foot section will be detached from 5515 Turtle Lake Road to enlarge the property at 5525 Turtle Lake Road. The remaining property at 5515 Turtle Lake Road will be 4.56 acres. No change of the current development is proposed for 5515 and 5525 Turtle Lake Road. Both have houses with attached garages.

The property is zoned R1, Detached Residential. Front setbacks are a minimum of 25 to 40 feet. Averaging is used for the front setback when adjacent homes exceed a 40-foot setback, as in this case. Side setbacks are 10 feet for living area and 5 feet for accessory structures. The rear setback is a minimum of 30 feet. The maximum lot coverage allowed is 40% of the lot area. The two existing homes exceed the minimum structure setbacks. Municipal water and sewer must be provided and are stubbed at the front lot line. There are drainage and utility easements along lot lines and over wetlands and wetland buffer areas.

The planned land use of this property is Low Density Residential, 0 to 4 units per acre. The property is located in Policy Development Area (PDA) 4, which is the Turtle Lake Road Neighborhood consisting of approximately 30 acres.

Staff finds that the proposed plat is consistent with policies for the PDA--low density. It incorporates existing homes and has minimal environmental impact. The PDA goal is for integrated redevelopment rather than piecemeal or fragmented development. Two sketches were submitted to show possible future subdivision of the property and how this proposal would not impact cohesive further development in Shoreview. The obstacle to cohesive development is the fragmented ownership of the various parcels.

Mature trees are present on Lots 1 and 2. Removal of landmark trees will require replacement at a ratio of 2 replacements for each landmark tree taken out. Environmental impacts will be evaluated with building permits. There are two wetland areas, the delineations of which are being reviewed by the Rice Creek Watershed District. A 16.5-foot buffer is required per City Code. No impact to wetland is anticipated with this development. Grading will be evaluated with building permits. Grading is anticipated for future houses and drives. The existing drainage pattern will remain.

Property owners within 350 feet were notified of the proposal. No written responses were received. Two telephone calls were from residents concerned about the potential for storm water issues with the future subdivision of Lot 4. Notice of the required Public Hearing was not published. The public hearing will be held at the City Council's November 17th meeting.

Staff finds the proposal consistent with the City's Comprehensive Plan and Development Code. It is recommended that the Planning Commission forward the plat to the City Council with a recommendation for approval.

Commissioner Proud asked if the two lots can be developed without variances. **Mr. Moser**, Moser Homes, Inc., Applicant, stated that no variances are anticipated with development.

Commissioner McCool noted that driveways cross lot lines. He would like to be assured that there are easement agreements. He supports this proposal but will offer an added condition that the applicant demonstrates a private drive to the City or that the easements are recorded.

MOTION: by Commissioner McCool, seconded by Commissioner Ferrington to recommend the City Council approve preliminary plat submitted by Moser Homes Inc. on behalf of Barb and Tom Novotny to subdivide and develop the property at 5515

Turtle Lake Road into 4 lots, with two new lots for single-family detached homes. Said recommendation for approval is subject to the following seven conditions and the addition of condition No. 8, that the applicant must demonstrate to City staff that private driveway easements exist serving the lots within the subdivision and to serve the property located at 5521 Turtle Lake Road; if such easements do not exist, the applicant will place appropriate easements on record as a condition to the City's release of the plat.

1. The approval permits the development of a detached residential subdivision providing 4 parcels, two lots with existing detached residences and two lots for single family residential development.
2. A public use dedication fee shall be submitted as required by ordinance prior to release of the final plat by the City.
3. The final plat shall include drainage and utility easements along the property lines and wetland areas. Drainage and utility easements along the front and rear lot lines shall be 10 feet wide and along the side lot lines these easements shall be 5 feet wide, and as otherwise required by the Public Works Director.
4. Tree Preservation and Replanting plan shall be submitted with each building permit application for Lots 1 and 2. Replacement trees shall be planted in accordance with the City's Woodlands and Vegetation Ordinance.
5. The applicant and future property owners shall maintain a 16.5' buffer along the perimeter of the all wetland areas.
6. Grading, Drainage and Erosion Control shall be submitted with each building permit application for Lots 1 and 2.
7. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project.

This approval is based on the following findings:

1. The proposed development plan supports the policies stated in the Comprehensive Plan related to land use and housing.
2. The proposed development plan carries out the recommendations as set forth in the Housing Action Plan
3. The proposed development plan will not adversely impact the planned land use of the surrounding property.
4. The preliminary plat complies with the subdivision and minimum lot standards of the Development Code.

VOTE: **Ayes - 6** **Nays - 0**

VARIANCE

FILE NO.: **2551-14-41**
APPLICANT: **ANDREW TILSTRA**
LOCATION: **340 SNAIL LAKE ROAD**

Presentation by City Planner Kathleen Castle

This application is for a variance to reduce the minimum structure setback permitted from an arterial roadway from the required 55 feet to 40 feet. The property has an existing home with attached garage with access off Snail Lake Road. The property is located on the southwest corner of Snail Lake Road and Hodgson Road with a lot width of 106.64 feet of frontage on Snail Lake Road. There is a detached garage with access off Hodgson Road.

The proposal is to build a 378 square foot addition on the east side of the house adjacent to Hodgson Road. The minimum setback from Hodgson Road right-of-way is 40 feet. The addition is one story and will provide a new entry way facing Snail Lake Road and an interior dining area with remodeling.

The property is zoned R1, Detached Residential. The minimum front setback from an arterial street is 40 feet. However if the setback of the adjoining structure exceeds 40 feet, the average is used. The home to the south is set back 55 feet. Therefore, the minimum setback for this property is 45 feet.

The applicant states that there is practical difficulty based on the configuration of the lot, the location of the existing home and neighborhood characteristic.

Staff agrees with the applicant. Reorienting the entryway to Snail Lake Road is reasonable since access to the home is from Snail Lake Road. The building wall will not extend further east than the existing home. The configuration of the lot is unique. The angle of Hodgson Roads limits expansion on the east side of the home. The addition will not extend any further east than the existing home. Expansion on the west is difficult due to the house design.

The character of the neighborhood varies with larger lots and greater setbacks, as well as smaller lots with smaller setbacks. The house to the north is on a corner lot. The setback of that house is not considered. The house to the south is 65 feet. The proposed addition will not impact the neighborhood.

Property owners within 150 feet were sent notices. No comments were received. It is staff's recommendation that practical difficulty is present and that the variance be granted.

Mr. Andy Tilstra, 340 Snail Lake Road, stated that they moved to Shoreview in 2010, and have worked with the City on a number of improvements. He is willing to answer any questions.

MOTION: by Commissioner Ferrington, seconded by Commissioner Thompson to approve the variance request submitted by Andrew Tilstra, 340 Snail Lake Road, reducing the minimum 55-foot structure setback required from a side property line abutting an arterial roadway to 40 feet and adopt Resolution No. 14-94, subject to the following conditions:.

1. This approval will expire after one year if the variance has not been recorded with Ramsey County.
2. The approval is subject to a 5-day appeal period.

This motion is based on the following findings:

1. The proposed single-family residential use of the property is consistent with the low density residential land use designation proposal and the R-1, Detached Residential Zoning District.
2. Practical difficulty is present based on the findings of fact in Resolution 14-94. The proposed addition is reasonable as it improves access to the home and provides living space. Unique circumstances are present due to the configuration of the lot, location, design and orientation of the existing home and characteristic of Hodgson Road. The proposed setback is in keeping with the character of the neighborhood.
3. The proposed improvements support the policies of the Comprehensive Plan regarding housing maintenance and neighborhood reinvestment.

VOTE: **Ayes - 6** **Nays - 0**

MISCELLANEOUS

City Council Assignments

Commissioners Proud and Ferrington are respectively scheduled to attend the November 3, 2014 and November 17, 2014 City Council meetings. Chair Solomonson and Commissioner Schumer are respectively scheduled to attend the December 1, 2014 and December 15, 2014 City Council meetings

Planning Workshop

A Planning Commission is scheduled for 6:00 p.m. on November 18, 2014, immediately prior to the next Planning Commission meeting at 7:00 p.m.

The December meeting of the Planning Commission is December 16, 2014.

ADJOURNMENT

MOTION: by Commissioner McCool, seconded by Commissioner Thompson to adjourn the meeting at 9:48 p.m.

VOTE: **Ayes - 6** **Nays - 0**

ATTEST:

Kathleen Castle
City Planner